

REPLY UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
TECHNOLOGY CENTER 2800
Docket No. 1670.1019

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Koji SHIGEMURA et al.

Application No. 10/718,640

Group Art Unit: 2879

Confirmation No. 1164

Filed: November 24, 2003

Examiner: Natalie K. Walford

For: EVAPORATION MASK, METHOD OF FABRICATING ORGANIC
ELECTROLUMINESCENT DEVICE USING THE SAME, AND ORGANIC
ELECTROLUMINESCENT DEVICE

**REQUEST AFTER FINAL REJECTION FOR COMPLETE OFFICE ACTION AND
RESTARTING OF PERIOD FOR RESPONSE**

Mail Stop AF

Commissioner for Patents
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Sir:

This is in response to the Final Office Action October 29, 2008, and having a period for response set to expire on January 29, 2009.

The Final Office Action of October 29, 2008, includes a Notice of References Cited (form PTO-892) on which the Examiner has cited "English translation of JP 2000-160323." This is an English translation of Yokoi, which is the primary reference relied on by the Examiner in the rejections of claims 1-6, 10-23, 26-30, 34-38, and 49-56 under 35 USC 102(b) and 103(a). However, the Examiner did not provide a copy of the English translation with the Final Office Action of October 29, 2008, as requested by the applicants on page 11 of the Request for Reconsideration of July 14, 2008. It is submitted that the Examiner MPEP 707.05(a) requires the Examiner to provide a copy of the English translation.

It is submitted that the Examiner's failure to provide a copy of the English translation with the Final Office Action of October 29, 2008, is an error pursuant to MPEP 707.05(a) and 707.05(g) that affects the applicants' ability to reply to the Final Office Action of October 29, 2008, pursuant to MPEP 710.06 because the applicants are unable to review the English translation relied on by the Examiner on which the rejections of claims 1-6, 10-23, 26-30, 34-38, and 49-56 under 35 USC 102(b) and 103(a) are based.

Accordingly, it is respectfully requested that the Examiner issue a complete Office Action providing a copy of the English translation of JP 2000-160323 relied on by the Examiner as required by MPEP 707.05(a) and 707.05(g) and restarting the period for response as required by MPEP 710.06.

On pages 2-15 of the Final Office Action of October 29, 2008, the Examiner provides explanations of the rejections of claims 1-6, 10-23, 26-30, 34-38, and 49-56 under 35 USC 102(b) and 103(a) that are identical to the explanations of the same rejections on pages 2-15 of the Office Action of May 1, 2008, except that the formatting has been changed.

On page 16 of the Final Office Action of October 29, 2008, in response the arguments presented in the Request for Reconsideration of July 14, 2008, the Examiner states as follows:

Applicant's arguments filed July 14, 2008 have been fully considered but they are not persuasive. The Examiner respectfully disagrees with Applicant's arguments. The Examiner first points to figure 10 where the first dummy apertures are the outermost apertures (item 4) and the main apertures are the inner apertures (item 4). Regarding the tension of the mask, the Examiner points to paragraph 5, which clearly states that tension is being applied. Regarding the disposition area, the reference has the exact same configuration as Applicant, and would have the same disposition area. Regarding the plurality of mask units, the Examiner points to figure 10, which shows multiple mask units. Hence, Applicant's limitations are met as set forth.

However, it is submitted that the Office Action of October 29, 2008, is incomplete because the Examiner did not take note of the other arguments in the Request for Reconsideration of July 14, 2008, and answer the substance of them as required by MPEP 707.07(f). These other arguments include the following arguments with respect to claim 1 on pages 13 and 14 of the Request for Reconsideration of July 14, 2008:

Furthermore, it is not seen where tension is applied to the mask 3 in FIG. 10 of Yokoi because the mask 3 in FIG. 10 of Yokoi is not provided with the holes 34 that are provided in the mask 3 in FIG. 2 of Yokoi that engage with the protuberances 18 of the mask holder 17 in FIGS. 3 and 4 of Yokoi to which tension is applied in the direction of the arrow X1 in FIG. 2 of Yokoi as shown in FIGS. 1, 3, and 4 of Yokoi. Accordingly, it is not seen where the embodiment in FIGS. 7-11 of Yokoi provides the feature "tension is applied to the evaporation mask" recited in claim 1.

It is submitted that the Examiner cannot rely on a combination of features from different embodiments disclosed in Yokoi in an anticipation rejection of claims 1, 2, 4, 5, 10, 12, 13, 15, 17, 18, 20, 21, 23, 26, 28, 29, 34, 36, 37, and 49-56 under 35 USC 102(b) because any such combination would be a modification of Yokoi that can only be relied on in an obviousness rejection under 35 USC 103(a). Here, the Examiner appears to have relied on a combination of the embodiment in FIGS. 1-4 of Yokoi and the embodiment in FIGS. 7-11 of Yokoi.

Furthermore, it is not seen where anything whatsoever in Yokoi indicates that Yokoi considers there to be any differences between any of the apertures 4 of the mask 3 in FIG. 10 of Yokoi. Accordingly, it is submitted that there is no basis whatsoever in Yokoi for the Examiner's position that some unspecified ones of the apertures 4 correspond to the main apertures recited in claim 1, while other unspecified ones of the apertures 4 correspond to the first dummy apertures recited in claim 1. Rather, it appears that the Examiner has arbitrarily denoted some of the apertures 4 as main apertures and others of the apertures 4 as first dummy apertures based solely on the language of claim 1, such that the Examiner's position is based solely on an impermissible hindsight reconstruction of the invention.

It is submitted that the Examiner cannot simply ignore the fact that claim 1 recites two different types of apertures, i.e., main apertures and first dummy apertures, and that the Examiner must provide some logical basis for her determination that some unspecified ones of the apertures 4 correspond to the main apertures recited in claim 1, while other unspecified ones of the apertures 32 correspond to the first dummy apertures recited in claim 1. Absent such a logical basis, it is submitted that the Examiner has not established a *prima facie* case of anticipation with respect to claim 1.

Furthermore, in the mask 4 in FIG. 2 of Yokoi, the apertures 4 are formed adjacent to one another in a direction perpendicular to the direction of the arrow X1 in which tension is applied. Accordingly, it is submitted that Yokoi does not disclose "first dummy apertures formed adjacent to outermost ones of the main

apertures in a direction in which tension is applied to the evaporation mask" as recited in claim 1.

and the following arguments with respect to claim 4 on pages 15 and 16 of the Request for Reconsideration of July 14, 2008:

With respect to the "second dummy apertures" recited in claim 4, the Examiner has now taken the position that some of Yokoi's apertures 4 correspond to the main apertures recited in claim 1 from which claim 4 indirectly depends; that other ones of Yokoi's apertures 4 correspond to the first dummy apertures recited in claim 1 from which claim 4 indirectly depends; and that still other ones of Yokoi's apertures 4 correspond to the second dummy apertures recited in claim 4. However, the Examiner has not identified which of Yokoi's apertures 4 correspond to the various apertures recited in claim 4 by virtue of its dependence from claim 1. Accordingly, should the Examiner repeat the rejection, it is respectfully requested that the Examiner provide a marked-up copy of FIG. 10 of Yokoi relied on by the Examiner in the rejection of claim 1 or any other figure of Yokoi showing which of Yokoi's apertures 4 she considers to correspond to the main apertures, the first dummy apertures, and the second dummy apertures recited in claim 4 by virtue of its dependence from claim 1.

Furthermore, it is submitted that the Examiner has not provided any logical basis for her determination that various ones of Yokoi's apertures 4 correspond to various ones of the apertures recited in claim 4 by virtue of its dependency from claim 1. Absent such a logical basis, it is submitted that the Examiner has not established a *prima facie* case of anticipation with respect to claim 4.

and the following arguments with respect to claim 10 on page 17 of the Request for Reconsideration of July 14, 2008:

Furthermore, it is submitted that Yokoi does not disclose "forming a first dummy pattern area outside the effective luminescent area through the first dummy apertures" as recited in claim 10.

The Examiner states "forming a first dummy pattern area (area around item 4) outside the effective luminescent area through the first dummy apertures." However, "area around item 4" referred to by the Examiner is merely the solid portions of Yokoi's mask 3 in which the apertures 4 are formed. These solid portions do not form any pattern apart from the pattern of the apertures 4, and thus cannot reasonably be considered to be "a

first dummy pattern area" as recited in claim 10. Furthermore, the Examiner has taken the position that some of Yokoi's apertures 4 correspond to the "first dummy apertures" recited in claim 10, but none of the solid portions of the mask 3 around the apertures 4 are formed through any of the apertures 4 as would be necessary for the Examiner's position that the solid portions of the mask 3 around the apertures 4, i.e., the "area around item 4," correspond to "a first dummy pattern area" as recited in claim 10 to be even remotely tenable.

Furthermore, it is submitted that there is no basis whatsoever in Yokoi for any of the thin films 100a (red), 100b (blue), and 100c (green) that are formed on the substrate 6 using Yokoi's masks 3 as shown in FIG. 14 of Yokoi to be considered to be "a first dummy pattern area" as recited in claim 10.

and the following arguments with respect to claim 12 on page 17 of the Request for Reconsideration of July 14, 2008:

It is submitted that Yokoi does not disclose the feature "wherein at least two organic EL devices are manufactured in a single process" recited in dependent claim 12.

The Examiner considers FIG. 14 of Yokoi to disclose the above feature of claim 12. However, FIG. 14 of Yokoi shows forming thin films 100a (red), 100b (blue), 100c (green) of the single EL device shown in FIGS. 16 and 17 of Yokoi. Nor does any other portion of Yokoi disclose the above feature of claim 12.

and the following arguments with respect to claim 51 on page 19 of the Request for Reconsideration of July 14, 2008:

Furthermore, it is submitted that Yokoi does not disclose the feature "wherein the dummy aperture prevents the main aperture from being deformed by tension applied to the evaporation mask" recited in claim 51.

The Examiner states as follows:

Regarding claim 51, Yokoi discloses a mask unit (item 3) for an evaporation mask in figure 10, comprising: a main aperture (item 4); and a dummy aperture (item 4); wherein the dummy aperture prevents the main aperture from being deformed by tension applied to the evaporation mask (paragraph 5).

Paragraph [0005] in the attached machine English translation of Yokoi reads as follows:

A method for forming thin film concerning the 1st invention is in a state where a mask was made to meet a film formation surface of a base using a mask with two or more openings, and a base with a film formation surface, As shape of an opening of a mask is transferred, it is a method for forming thin film which carries out membrane formation processing of the thin film in a film formation surface, and membrane formation processing is performed, where tension is given to a mask so that curvature of a mask and bending is suppressed.

However, this paragraph of Yokoi merely states that tension is applied to Yokoi's mask 3 to suppress curvature and bending of the mask 3. It is submitted that nothing whatsoever in this paragraph of Yokoi or in any portion of Yokoi discloses the feature "wherein the dummy aperture prevents the main aperture from being deformed by tension applied to the evaporation mask" recited in claim 51. Nor has the Examiner explained why she considers paragraph [0005] of Yokoi to disclose this feature of claim 51.

and the following arguments with respect to claim 3 on pages 20 and 21 of the Request for Reconsideration of July 14, 2008:

It is submitted that Yokoi and Himeshima do not disclose or suggest the feature "wherein at least one of the first dummy apertures is formed parallel to the main apertures, and at least another one of the first dummy apertures is formed perpendicular to the main apertures" recited in dependent claim 3.

The Examiner considers FIG. 35 to disclose the above feature of claim 3. However, it is not seen where FIG. 35 discloses this feature, and accordingly, absent a more detailed explanation of the rejection, it is submitted that FIG. 35 does not disclose this feature as alleged by the Examiner. Should the Examiner repeat the rejection, it is respectfully requested that the Examiner provide a marked-up copy of FIG. 35 of Himeshima showing this feature of claim 3.

The applicants made this same request on page 16 of the Request for Reconsideration of January 28, 2008, but the Examiner did not comply with this request or otherwise respond to this request in the Office Action of May 1, 2008.

and the following arguments with respect to claim 6 on page 21 of the Request for Reconsideration of July 14, 2008:

It is submitted that Yokoi and Himeshima do not disclose or suggest the feature "wherein at least one of the second dummy apertures is formed parallel to the main apertures of the mask units, and at least another one of the second dummy apertures is formed perpendicular to the main apertures" recited in dependent claim 6.

The Examiner considers FIG. 35 to disclose the above feature of claim 6. However, it is not seen where FIG. 35 discloses this feature, and accordingly, absent a more detailed explanation of the rejection, it is submitted that FIG. 35 does not disclose this feature as alleged by the Examiner. Should the Examiner repeat the rejection, it is respectfully requested that the Examiner provide a marked-up copy of FIG. 35 of Himeshima showing this feature of claim 6.

The applicants made this same request on pages 17 and 18 of the Request for Reconsideration of January 28, 2008, but the Examiner did not comply with this request or otherwise respond to this request in the Office Action of May 1, 2008.

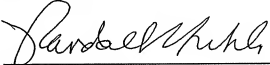
It is submitted that the Examiner's failure to take note of these arguments and answer the substance of them as required by MPEP 707.07(f) in the Final Office Action of October 29, 2008, is an error that affects the applicants' ability to reply to the Final Office Action of October 29, 2008, pursuant to MPEP 710.06 because the applicants are unable to determine why the Examiner has maintained the rejections in light of these arguments.

Accordingly, it is respectfully requested that the Examiner issue a complete Office Action taking note of the above arguments and answering the substance of them as required by MPEP 707.07(f) and restarting the period for response as required by MPEP 710.06.

Respectfully submitted,

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Date: 11/18/08

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